

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 271 - SB 324

February 22, 2019

SUMMARY OF BILL: Decreases, from 90 days to 30 days from the last day of the month of occurrence, the time period in which a construction owner must surrender retainage fees of a project contract to the prime contractor after one of the following events: work is completed; substantial completion of the project for work is completed; or the owner receives a use or occupancy permit, if the project is subject to such permit.

Deletes provision from statute that authorizes a prime contractor to include a condition precedent for payment in a contract with a remote contractor stating the prime contractor is not obligated to pay the remote contractor until the prime contractor is paid by the construction owner client. Establishes a prime contractor, or remote contractor in respect to a prime contractor, may suspend performance of work, without penalty, and receive payment of late fees, if payment is not received from a construction owner client in accordance with a written contract.

ESTIMATED FISCAL IMPACT:

NOT SIGNIFICANT

Assumptions:

- Decreasing the time period in which retainage fees must be paid to a prime contractor after one of the aforementioned events occurs can be accommodated by all public entities engaging in construction contracts within existing resources.
- All state and local entities engaging in construction contracts are presumed to uphold payment agreements with all parties of said contract; establishing late fees for breach of contract is not estimated to cause a significant fiscal impact.
- The proposed legislation does not cause a significant impact to the Board of Licensing Contractors (BLC).
- Pursuant to Tenn. Code Ann. § 4-29-121, all regulatory boards are required to be self-supporting over any two year period. The BLC experienced a surplus of \$164,954 in FY16-17, a surplus of \$96,912 in FY17-18, and a cumulative reserve balance of \$2,513,165 on June 30, 2018.

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IMPACT TO COMMERCE:

NOT SIGNIFICANT

Assumptions:

- The proposed legislation could result in an increase of business revenue for prime or remote contractors receiving late fees in the case of a payment breach of contract; however, any additional revenue is estimated to be not significant.
- The proposed legislation will not have a significant impact to jobs or commerce in Tennessee.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

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